



2d Infantry Division

A Guide for Summary Courts-Martial

References:

- a. AR 27-10, para. 5-21
- b. DA PAM 27-7, Guide for Summary Court-Martial Trial Procedure
- c. Appendix 9, MCM, Guide for Summary Courts-Martial, 2005 Edition

2006 Edition

Administrative Law Division
732-8998

A Guide for Summary Courts-Martial (SCM)

INTRODUCTION

1. This guide is intended to assist officers detailed as Summary Court-Martial Officers (SCMO) and Legal NCOs and Specialists who are responsible for providing administrative support to the SCM.
2. Appointment as a SCMO is an important responsibility that generally takes priority over all other assigned duties. Expedious processing of SCM is essential to enhancing good order and discipline and soldier confidence in the military justice system.
3. Immediately upon appointment, you should carefully review this guide, the court-martial packet, Rules for Courts-Martial (RCM) 1301-1306 (UCMJ), and DA Pam 27-7.
4. Duties: A SCM becomes your primary duty. Some of your specific duties are to:
 - a. Promptly adjudicate minor offenses under a simple procedure,
 - b. Thoroughly and impartially inquire into both side of the matter,
 - c. Consider all the evidence and determine the facts based on the evidence,
 - d. Ensure that the interests of the Government and the accused are safeguarded and that justice is done.
 - (1) Provide the accused with a meaningful opportunity to consult with military defense counsel prior to the SCM.
 - (2) The supporting Legal NCO/Specialist should schedule an appointment for the accused with the, US Army Trial Defense Service and ensure that the accused brings a complete copy of the SCM file to any appointment.
3. Legal Advice. Within 24 hours of appointment, you should also schedule an appointment with the Administrative Law Division so that you can receive a legal briefing on your duties and responsibilities. This legal advisor will also answer questions and provide advice during the SCM.
4. Changes. We need input from SCMO's like you in order to make this Guide helpful. If you have any recommendations, please submit them to the Administrative Law Division.

SUMMARY COURT MARTIAL CHECKLIST

1. Keeping a Log. Initiate and maintain a chronology of activity. _____
2. Review DA Pam 27-7, Guide for Summary Court-Martial Trial Procedure, dated 15 June 1985, and RCM 1301-1306. _____
3. Review the Charge Sheet (DD Form 458) and the case file. Ensure that the Charge Sheet is administratively correct. _____
4. Review the element of the charged offense in the Manual for Courts-Martial United States (2002 Edition). Obtain a copy of the applicable charges offenses (punitive articles from the UCMJ) from your supporting Legal NCO/Specialist. _____
5. Prepare for preliminary proceeding:
 - a. Send a notification memorandum to the accused informing him/her of the date, time, location, and duty uniform for the SCM (see sample memorandum at page 5). Generally, the proceedings should be within five (5) days of your appointment. (Consult with your supporting Legal NCO/Specialist regarding sending notification to the accused.) _____
 - b. Determine what witnesses are necessary and in what order they will be called. Prepare questions for the witnesses, based on the information in the case file, prior to the SCM. Notify witnesses (including defense witnesses) of the location and time at which they should be available to testify at the SCM. (Consult with your supporting Legal NCO/Specialist regarding witness coordination). _____
 - c. Ensure the accused has received the opportunity to consult with defense counsel and has completed the SCM Rights Notification/Waiver Statement (DA Form 5111-R) (This must be done prior to preliminary proceedings). _____
 - d. Ensure that the Legal NCO/Specialist is in attendance during all proceedings. _____
 - e. Prepare the Script for use during the SCM. (Consult with your supporting Legal NCO/Specialist). _____

Documents and Physical Evidence.
6. Conduct the Preliminary Proceedings (See RCM 1304(b)(1)).
 - a. Follow the SCM script. (Preliminary Proceedings, pg. 1-5 of the SCM Script)
 - b. Ensure that item 15 of the Charge Sheet (DD Form 458) is signed and deliver a copy to the accused. _____
 - c. If the accused objects to trial by SCM, annotate this on the DD Form 2329 and return the file to the appointing authority. If the accused does not object to trial by SCM, proceed to trial. _____
 - d. Determine if the accused will be represented by civilian counsel (RCM 1301(e)). _____

7. Conduct Trial Proceedings (See the SCM Officer Script starting at pg 6):

- a. Arraign the accused. _____
- b. Motions (as applicable). _____
- c. Explanation of the Pleas.

(1) Guilty Plea. If the accused pleads guilty to one or more offenses, follow Appendix C (Guilty Pleas) of the SCM Script.

(2) Not Guilty Plea. If the accused pleads not guilty to one or more offense or more offenses, follow Appendix D (Guide for Conducting an Evidentiary Hearing) of the SCM Script.

8. Announcing the findings and, as applicable, sentence the accused.

- a. If the accused is found guilty beyond a reasonable doubt of one or more offenses, follow pgs 9-10 (Sentencing) of the SCM Script. _____
- b. Impose sentence ensuring that it does not exceed the maximum punishment. Use the Sentence Worksheet. _____
- c. SCM can recommend suspension, but can not suspend any part of the sentence. _____

9. Advise the Accused of his/her Post Trial Rights.

- a. Request deferment of confinement by submitting a written request to the SCM Convening Authority. Annotate accused was so advised in item 10, DD Form 2329. If accused requests deferment, contact the unit TC to ensure correct processing of the request IAW RCM 1101(c). _____
- b. Submit clemency matters to the convening authority within 7 days of the announcement of sentence to the SCM Convening Authority. Annotate accused was so advised in item 11, DD Form 2329. _____

10. Adjourn the SCM. If you have sentenced the accused to confinement, formally transfer the accused to the custody of the unit escorts.

- a. Ensure the accused understands that he or she must comply with the orders of his escorts. _____
- b. Ensure that the escort have been properly briefed by the supporting Legal NCO/Specialist and have been provided copies of the required checklists.
- c. It is the unit commander's responsibility to make arrangements to transfer the accused to Camp Humphreys' Confinement Facility. _____

11. Complete Post Trial Procedures (See DA Pam 27-7, page 24):

- a. Prepare and sign the Report of Result of Trial (DA Form 4430-R). _____
- b. Prepare and sign the Record of Trial by the SCM (DD Form 2329). _____
- c. Serve a copy of the Record of Trial on the accused and attach the accused receipt to each copy of the Record of Trial (See sample receipt at pg 10). Make sure the accused signs the "Copy Received on" portion of block 8, DD Form 2328. Service of the Record should occur before the accused is released to the custody of the escorts. _____
- d. Ensure the supporting Legal NCO/Specialist submits the original and one copy of the completed proceedings and along with your chronology to the SCM Convening authority. _____
 - (1) Note the Legal NCO/paralegal must monitor the timeline in which the accused may appeal to the Convening Authority.
 - (2) The SCM Convening Authority (SCMCA) may not take action unless either the soldier waives submission of post-trial matters or the time constraint for the submission of post-trial matters has expired.

OFFICE SYMBOL

DATE

MEMORANDUM THRU (Immediate Commander of the Accused)

FOR (Name of the Accused)

SUBJECT: Notification of Summary Court Martial

1. Initial session of your summary court-martial will convene as follows:

- a. Date: _____
- b. Time: _____
- c. Location: _____
- d. Uniform: _____

2. You have the right to consult with qualified counsel before the initial session for advice concerning your rights and options and the consequences of waivers of these rights by voluntarily consenting to trial by summary court-martial.

3. You have the right to be represented during the summary court-martial proceedings by a civilian lawyer provided by you at no expense to the government. You also have the right to be represented by a military lawyer if one has been made available for that purpose by competent authority.

4. You also have the right to request witnesses to testify on your behalf and to present written matter in your defense. You must provide me with a list of your witnesses not later than _____.

5. Attached is a copy of the court-martial charge(s) in this case and the supporting documentary evidence. You should bring this packet with you when you consult with defense counsel. If you elect to be tried by summary court-martial, you will return the attached DA Form 5111-R to me at the initial session.

6. POC for this action is the undersigned at _____.

Rank, Branch
Summary Court-Martial

4 Encls.

- 1. Notification Memorandum
- 2. DA Form 5111-R
- 3. Charge Sheet
- 4. Allied Documents

OFFICE SYMBOL

DATE

MEMORANDUM FOR (Rank, Name, and Unit of Summary Court Martial)

SUBJECT: Notification of Summary Court Martial

1. I have read, understand, and acknowledge receipt of the basic correspondence on
_____.

2. I understand that I must provide you not later than _____ a list of any witnesses
(including their unit and contact number) that I wish to testify at my summary court-martial.

Rank, U.S. Army
SSN of Accused

PROCESSING TIME GUIDELINES FOR SUMMARY COURT MARTIAL

	ALLOWABLE # OF DAYS	TOTAL ELAPSED DAYS
a. Pre-trial (Preferral of charges or initiation of restraint until referral of charges)	3	3
b. Pre-trial (Referral of charges until date of SCM)	7	10
c. Post-trial (date sentence or acquittal is announced until final action by the SCMCA *)	7*	17
d. Post-trial (final action by the SCMCA to receipt by SJA)	3	21

* Action by the convening authority may not be taken earlier than seven (7) days after service on the accused of the record of trial. An accused has the right to submit matters to the convening authority for consideration within seven (7) days after the sentence is announced. The convening authority may extend this period for not more than 20 additional days for good cause.

**CHRONOLOGY OF SUMMARY COURT MARTIAL IN
UNITED STATES v. _____**

[illegible]

ASSEMBLING PACKET FOR SUMMARY COURT MARTIAL

The legal NCO/specialist providing support to the SCM will assemble the file in the following order before delivering it to the SCMO:

TAB	ITEM
A	Charge Sheet (DD Form 458)
B	Allied Documents (including MP/CID Reports, Witness/Counseling Statements, DA Form 4187, etc.)
C	Elements of the charged offense(s) and lesser included offense(s) as excerpted from the Manual for Courts-Martial.
E	Blank Forms (Original File Only) <ul style="list-style-type: none">- DA Form 5111-r (Summary Court-Martial Rights Notification/Waiver Statement)- DA Form 4430-R (Report of Result of Trial)- DD Form 2329 (Record of Trial by SCM)- DD Form 2707 (Confinement Order)- DD Form 2704 (Victim/Witness Certification and Election Concerning Inmate Status)
F	Guide for Summary Court-Martial
G	Summary Court-Martial Script
H	DA Pam 27-7

The Legal NCO/Specialist will maintain the original file and deliver one copy of the file to the SCMO and one copy to the designated TDS attorney. The files should be organized in the above manner. Ensure all copies are legible and double sized documents are properly reproduced.

LEGAL NCO/SPECIALIST CHECKLIST FOR SUMMARY COURTS-MARTIAL

1. Ensure accused is flagged IAW AR 600-8-2 (DA Form 268). _____
2. Ensure the charges are properly referred to a SCM (see AR 27-10). _____
3. Assemble the file IAW this guide (See pg 10), maintain the original file, deliver one copy of the file to the SCMO, and provide one copy to the TDS office for the designated attorney. _____
4. Provide SCMO with the appropriate extract from the MCM, detailing the elements of the charged offenses and lesser included offenses. _____
5. Provide administrative support to the SCM in coordinating the attendance of witnesses. _____
6. Attend the SCM and provide administrative support as needed. Ensure the SCMO has access to a current pay chart. _____
7. Expeditiously prepare the Report of Result of Trial (DA Form 4430) and the Record of Trial (DD Form 2329). Complete as much of the DD Form 2329 as is possible prior to the date of trial. _____
8. Arrange for immediate service of the record of trial on the accused. Ensure the accused signs receipt for the record of trial (See pg 12) and attach receipt to each copy of the record of trial. Also Ensure the accused signs block 8, DD Form 2329 where it reads "COPY RECEIVED ON ____." _____
9. If sentence includes confinement, ensure the SCMO signs confinement-related paperwork:
 - DD Form 2707, Confinement Order _____
 - DA Form 4430-R, Report of Result of Trial _____
 - DD Form 2704, Victim/Witness Certification _____
10. Ensure timely submission of record of trial to the Summary Court-Martial Convening Authority (SCMCA) not earlier than seven (7) days after sentencing (unless the accused waives right to submit post-trial matters). If the accused submits matters for consideration by the SCMCA, deliver to trial counsel for review and advice to SCMCA. Ensure SCMCA takes action as required by RCM 1306(b). _____
11. Serve copy of the SCMCA's action on the accused (See RCM 1306(b)(2)). _____
12. Promptly deliver record of trial to the Administrative Law Division for an RCM 1112 review. _____
13. Properly file and maintain record of trial. _____
14. Report SCM statistics on a monthly JAG-2 report (DA Form 3169-R). _____

UNITED STATES

v.

)
)
) SENTENCE WORKSHEET
)
)
)
)
)
)

(NOTE: After you have determined an appropriate sentence, strike out all inapplicable language and then announce)

_____(name of the accused), this Summary Court-Martial sentences you:

1. To no punishment

REPRIMAND:

2. To be reprimanded.

REDUCTION:

3. To be reduced to the grade of _____

FORFEITURES:

4. To forfeit \$_____pay (See note 2)

RESTRAINT, HARD LABOR, OR CONFINEMENT:

5. To be restricted for _____days to the limits of _____; OR

To perform hard labor without confinement for _____days (E-4 and below only); OR

To be confined for _____days (E-4 and below only).

(Date)

(Signature)

Notes:

1. A SCMO may not suspend all or part of a sentence, although the SCMO may recommend to the convening authority that all or part of a sentence be suspended.

2. If a sentence includes both reduction in grade and forfeitures, the maximum forfeiture is calculated at the reduced pay grade.

RECEIPT FOR COPY OF RECORD OF TRIAL

United States v. _____

(Date)

I acknowledge receipt of a copy of the authenticated record of trial IAW RCM 1305(d)(1) on the above date and understand that any matters to be submitted for consideration by the Convening Authority should be submitted within seven (7) days of receipt unless such period is extended for good cause shown. I (will) (will not) submit matters in my defense.

(Signature of the Accused)